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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,473	11/25/2003	Suntisuk Plooksawasdi	034691/311506	9127
826 7590 03/01/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER GILBERT, WILLIAM V	
			ART UNIT	PAPER NUMBER
			3635	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/720,473

Applicant(s)

PLOOKSAWASDI, SUNTISUK

Examiner

William V. Gilbert

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 14-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/24/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3635

#### DETAILED ACTION

This is a First Action on the Merits. Claims 1-21 are pending. Claims 14-21 are withdrawn from consideration as a nonelected invention. Claims 1-13 are examined as set forth below.

#### *Election/Restrictions*

1. Claims 14-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 14 February 2007.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "**longitudinally extending gap**", **Claim 1, line 6** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

Art Unit: 3635

The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent

Art Unit: 3635

claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

See Claims 10-12. Claim 12 should be immediately placed behind Claim 10.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said ribs" in line 5. It is unclear to the Examiner to which ribs Applicant refers: the "transverse ribs" per Claim 1, line 4, or the "longitudinally extending rib" per Claim 1, line 9.

Art Unit: 3635

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4** are rejected under 35 U.S.C. 102(b) as being anticipated by Mueser (U.S. Patent No. 815,619).

Claim 1: Mueser discloses a threaded reinforcing bar having a core (Fig. 1: 21), at least two series of transverse ribs (22, 23) separated by troughs, the ribs are separated by a longitudinally extending gap (as best understood by the Examiner, see objection above) and a longitudinally extending rib (24; the rib is in the gap).

Claim 2: the core is circular cross-section (Fig. 2).

Claims 3 and 4: the transverse ribs (22, 23) and longitudinal ribs (24) are integral with each other (Fig. 1, Claim 3) and with the core (Claim 4).

Art Unit: 3635

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 5-7 and 9-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueser in view of Colarusso (U.S. Patent No. 6,880,224).

Claim 5: Mueser discloses the claimed invention except for the absence of the rib in the trough. Colarusso discloses a reinforcing member (Fig. 1) where one end of the bar is

Art Unit: 3635

interrupted by the absence of a rib (28) in the trough (38). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to remove the longitudinal rib from the trough at the end of the threaded member so the troughs would remain unobstructed for the member to properly thread.

Claim 6: Mueser in view of Colarusso disclose the rib (28) terminates at a point spaced form the end of the bar.

Claim 7: only the final product, a longitudinal rib absent at the end of the bar, is considered. The phrase, "sheared off" line 1 is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 9: Mueser discloses a reinforcing bar with a core (21), a transversely extending rib (22) forming threads, and a longitudinally extending rib (24) intersecting the transverse rib at multiple areas. Mueser does not disclose the absence of the rib in the trough. Colarusso discloses a reinforcing member (Fig. 1) where one end of the bar is interrupted by the absence of a rib (28) in the trough (38). It would have been obvious at



Art Unit: 3635

the time the invention was made to a person having ordinary skill in the art to remove the longitudinal rib from the trough at the end of the threaded member so the troughs would remain unobstructed for the member to properly thread.

Claim 10: the core in Mueser is circular in cross-section.

Claim 11: the transverse rib in Mueser (22) is a continuous spiral along the bar.

Claim 12: Mueser discloses two discontinuities extending longitudinally (Fig. 1: where transverse rib intersects longitudinal rib), and the longitudinal rib (24) extends along the discontinuities.

Claim 13: the transverse and longitudinal ribs are integral with each other and the core.

**Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mueser and Colarusso as applied to claim 7 above, and further in view of Copping (U.S. Publication 2003/0012596).

Claim 8: Mueser in view of Colarusso disclose the claimed invention except parts of the transverse ribs have "sheared portions". See statement regarding "sheared" in rejection of Claim 8, above. Copping discloses a reinforcing member where parts the transverse ribs (Fig. 1: 4) have sheared portions

Art Unit: 3635

(where rib meets trough 2). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have these portions of part of the transverse ribs "sheared" to ease the initial threading process of the reinforcing member and the member to thread on it.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Young (U.S. Patent No. 5,046,878); Mulholland (U.S. Patent No. 4,584,247).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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